

**NOTICE TO THE BANKRUPTCY BAR AND PUBLIC
IN THE EASTERN DISTRICT OF WISCONSIN
AMENDED**

Several changes have been suggested to the Local Bankruptcy Rules for the Eastern District of Wisconsin. The Local Rules were last revised in 2003. The proposed changes are as follows:

1. A new rule allowing the Chapter 13 Trustee to issue an "Income Directive" to a debtor's employer without the need for a court order.
2. A new rule allowing for automatic modification of the automatic stay in Chapter 7 and 13 cases after 46 days to allow the IRS to offset a pre-petition refund.
3. Eliminate Local Bankruptcy Rule 1002 requiring the filing of a Summary Information Sheet with the petition.
4. Eliminate the prohibition against omnibus claims objections currently found in Local Bankruptcy Rule 3007(a).
5. To increase the amount and expand the scope of the presumed reasonable fee in Chapter 13 cases pursuant to LR 2016.1.

The text of the new proposed rules at 1, 2 and 5 above is attached. The Local Bankruptcy Rules can be found at <http://www.wieb.uscourts.gov/ctsv4i/localrules.html>.

The bankruptcy bar is invited to review these new rules and comment on them. Comments may be sent to the Local Bankruptcy Rules Committee chair, Jeffery D. Nordholm, at JeffN@sbm-law.com or to his office at 2433 N. Mayfair Road, Suite 207, Wauwatosa, WI 53226 or by fax, 414-453-0604.

The bar is also invited to comment on any other Local Bankruptcy Rule that was adopted in 2003 and to propose new rules that might improve practice in the Eastern District. Proposed rules, together with an explanation why the rule is being suggested, should be sent to Jeffery D. Nordholm at the addresses given above.

The comment period will end on March 30, 2005. At that time the Local Bankruptcy Rules Committee will review the proposed rules and comments to both proposed and existing rules. The Committee will then prepare the final rules which will be subject to additional comment from the bar before the final rules are recommended for adoption.

Jeffery D. Nordholm, Chair
Local Bankruptcy Rules Committee

2-28-05

Income Directive

- (1) The Chapter 13 trustee may, at any time, issue a Trustee's Income Directive or present an ex-parte order, based upon a proposed or confirmed plan requiring any entity from whom the debtor receives money to pay all or part of such income to the Chapter 13 trustee.
- (2) In any case in which a debtor desires to make plan payments directly to the trustee in lieu of an income directive, the debtor may do so only upon the entry of an order of the court authorizing such direct payments. Such an order will be entered only:
 - (A) upon the filing of an objection to the income directive by the debtor prior to the entry thereof; and
 - (B) after ten (10) days notice and hearing to the trustee; and
 - (C) upon a showing of cause.

Modification of the Automatic Stay in Chapter 7 and 13 cases After 46 Days to Allow the IRS to Offset a Pre-petition Refund

The automatic stay afforded by 11 U.S.C. § 362 shall be modified in Chapter 7 and 13 proceedings forty-six (46) days after the filing of the debtor's bankruptcy petition for the sole purpose of allowing the Internal Revenue Service to offset any pre-petition refund or credit due the debtor against any pre-petition tax debts in accordance with 26 U.S.C. § 6402, unless the debtor or any other party in interest files an objection and requests a hearing within forty-five (45) days after the filing of the debtor's bankruptcy petition.

Presumed Reasonable Fee in Chapter 13 Cases

- (a) **Compensation Allowed Without Application to the Court. Limits on Compensation Allowed.** Without application to the court, attorneys for debtors in chapter 13 cases shall be permitted to charge an attorney's fee not to exceed, unless all payments have been vested to creditors by earlier order, a base fee of \$2,000.00 per case.
- (b) **Case Level of Service.** The base fee set forth in paragraph (a) of this Local Rule shall be presumed to compensate the debtor(s)' attorney for a level of service to debtors that at a minimum shall include the following services:
 1. Verification of debtor's identity, social security number and eligibility for Chapter 13;
 2. Timely preparation and filing of petition, schedules, statement of financial affairs, chapter 13 plan, all amendments and all required documents pursuant to the Bankruptcy Code and Local Rules;
 3. Service of copies of all filed plans to all creditors and interested parties;
 4. Explanation to debtors regarding debtors' responsibilities, including, but not limited to, payments and attendance at the Sec. 341 meeting of creditors;
 5. Preparation for and legal representation at all Sec. 341 meeting of creditors;
 6. Preparation of and legal representation at all necessary pre-confirmation motions

- brought on behalf of debtors;
- 7. Timely review of all proofs of claim;
- 8. Timely objection to all improper or invalid proofs of claim;
- 9. Preparation for and legal representation at all confirmation hearings;
- 10. Pre-confirmation legal representation at and defense of all motions against debtors;
- 11. Preparation, filing and service of notices of conversion or voluntary dismissals;
- 12. Preparation, filing and service of motions to deem mortgage current.

- (c) **Additional Presumed Attorney Fees Without Application.** Without application to the court, upon filing and serving of an amended disclosure of compensation, pursuant to BR 2016(b), attorneys for debtors in chapter 13 cases may be permitted to charge an additional fee for the following services if the retainer agreement authorizes these fees not to exceed the following amounts:

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| 1. | Post-confirmation modification of plan | \$500 |
| 2. | Motion for hardship discharge | \$500 |
| 3. | Motion to purchase, sell or refinance real property | \$500 |
| 4. | Motion to rehear, vacate dismissal, shorten prejudice period or reinstate case | \$500 |
| 5. | Motion to avoid lien - opposed | \$500 |
| 6. | Motion to avoid lien - unopposed | \$250 |
| 7. | Defense of post-confirmation motion for relief from stay | \$500 |
| 8. | Defense of post-confirmation motion to dismiss case | \$250 |
| 9. | Motion to incur additional debt | \$250 |

- (d) **Limits on Presumed Fee Prior to Confirmation.** If a chapter 13 case is dismissed or converted prior to confirmation and the retainer agreement so provides, the attorney for the debtor may request and receive fees from monies paid to the chapter 13 trustee without separate application to the court, but the total fee, including any fees previously paid, may not exceed \$2,000.00, unless pursuant to court order.

- (e) **Expenses Without Application.** Reimbursement for the following expenses shall also be permitted without separate application for reimbursement:

- 1. Court reporter expenses no greater than \$125.00;
- 2. Interpreter fees no greater than \$75.00;
- 3. Credit report retrieval fees no greater than \$50 per person.

- (f) **Compensation and Expenses Requiring Application and Court Approval.** Attorneys seeking compensation or expenses which exceed the limits set forth in paragraphs (a) - (e) of this Local Rule 2016.1 shall submit an Application for Compensation pursuant to the requirements of LR 2016. This requirement applies to initial fee applications as well as to additional or supplemental applications.